

Introduced by Senator Kehoe

February 23, 2007

An act to add Sections 25550, 25550.5, and 25551 to, and to repeal Chapter 6.5 (commencing with Section 25500) of Division 15 of, the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 871, as introduced, Kehoe. Public resources: expedited siting of electrical generation.

Existing law provides for the restructuring of California's electric power industry so that the price for the generation of electricity is determined by a competitive market. Existing law, until January 1, 2007, required the State Energy Resources Conservation and Development Commission (Energy Commission) to establish a process for the expedited review of applications to construct and operate thermal powerplants and related facilities and for the expedited review of repowering projects.

This bill would, until January 1, 2012, reinstate those provisions for establishing a process for the expedited review of applications to construct and operate thermal powerplants and related facilities and for the expedited review of repowering projects.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25550 is added to the Public Resources
- 2 Code, to read:

1 25550. (a) Notwithstanding subdivision (a) of Section 25522
2 and Section 25540.6, the commission shall establish a process to
3 issue its final certification for any thermal powerplant and related
4 facilities within six months after the filing of the application for
5 certification that, on the basis of an initial review, shows that there
6 is substantial evidence that the project will not cause a significant
7 adverse impact on the environment or electrical system and will
8 comply with all applicable standards, ordinances, or laws. For
9 purposes of this section, filing has the same meaning as in Section
10 25522.

11 (b) Thermal powerplants and related facilities reviewed under
12 this process shall satisfy the requirements of Section 25520 and
13 other necessary information required by the commission, by
14 regulation, including the information required for permitting by a
15 local, state, and regional agency that would have jurisdiction over
16 the proposed thermal powerplant and related facilities, but for the
17 exclusive jurisdiction of the commission, and the information
18 required for permitting by each federal agency that has jurisdiction
19 over the proposed thermal powerplant and related facilities.

20 (c) After acceptance of an application under this section, the
21 commission shall not be required to issue a six-month final decision
22 on the application if it determines there is substantial evidence in
23 the record that the thermal powerplant and related facilities may
24 result in a significant adverse impact on the environment or
25 electrical system or do not comply with an applicable standard,
26 ordinance, or law. Under this circumstance, the commission shall
27 make its decision in accordance with subdivision (a) of Section
28 25522 and Section 25540.6, and a new application shall not be
29 required.

30 (d) For an application that the commission accepts under this
31 section, all local, state, and regional agencies that would have had
32 jurisdiction over the proposed thermal powerplant and related
33 facilities, but for the exclusive jurisdiction of the commission,
34 shall provide their final comments, determinations, or opinions
35 within 100 days after the filing of the application. The regional
36 water quality control boards, as established pursuant to Chapter 4
37 (commencing with Section 13200) of Division 7 of the Water
38 Code, shall retain jurisdiction over any applicable water quality
39 standard that is incorporated into any final certification issued
40 pursuant to this chapter.

1 (e) Thermal powerplants and related facilities that demonstrate
2 superior environmental or efficiency performance shall receive
3 priority in review.

4 (f) With respect to a thermal powerplant and related facilities
5 reviewed under the process established by this chapter, it shall be
6 shown that the applicant has a contract with a general contractor
7 and has contracted for an adequate supply of skilled labor to
8 construct, operate, and maintain the plant.

9 (g) With respect to a thermal powerplant and related facilities
10 reviewed under the process established by this chapter, it shall be
11 shown that the thermal powerplant and related facilities comply
12 with all regulations adopted by the commission that ensure that
13 an application addresses disproportionate impacts in a manner
14 consistent with Section 65040.12 of the Government Code.

15 (h) To implement this section, the commission may adopt
16 emergency regulations in accordance with Chapter 3.5
17 (commencing with Section 11340) of Part 2 of Division 3 of Title
18 2 of the Government Code. For purposes of that chapter, including
19 without limitation, Section 11349.6 of the Government Code, the
20 adoption of the regulations shall be considered by the Office of
21 Administrative Law to be necessary for the immediate preservation
22 of the public peace, health, safety, and general welfare.

23 SEC. 2. Section 25550.5 is added to the Public Resources Code,
24 to read:

25 25550.5. (a) Notwithstanding subdivision (a) of Section 25522
26 and Section 25540.6, the commission shall establish a process to
27 issue its final decision on an application for certification for the
28 repowering of a thermal powerplant and related facilities within
29 180 days after the filing of the application for certification that,
30 on the basis of an initial review, shows that there is substantial
31 evidence that the project will not cause a significant adverse impact
32 on the environment or electrical system and that the project will
33 comply with all applicable standards, ordinances, regulations, and
34 statutes. For purposes of this section, filing has the same meaning
35 as in Section 25522.

36 (b) The repowering of a thermal powerplant and related facilities
37 reviewed under this process shall satisfy the requirements of
38 Section 25520 and other necessary information required by the
39 commission by regulation, including the information required for
40 permitting by each local, state, and regional agency that would

1 have jurisdiction over the proposed repowering of a thermal
2 powerplant and related facilities, but for the exclusive jurisdiction
3 of the commission, and the information required for permitting by
4 a federal agency that has jurisdiction over the proposed repowering
5 of a thermal powerplant and related facilities.

6 (c) After an application is filed under this section, the
7 commission shall not be required to issue a final decision on the
8 application within 180 days if it determines there is substantial
9 evidence in the record that the thermal powerplant and related
10 facilities may result in a significant adverse impact on the
11 environment or electrical system or do not comply with an
12 applicable standard, ordinance, regulation, or statute. Under this
13 circumstance, the commission shall make its decision in accordance
14 with subdivision (a) of Section 25522 and Section 25540.6, and a
15 new application shall not be required.

16 (d) For an application that the commission accepts under this
17 section, a local, regional, or state agency that would have had
18 jurisdiction over the proposed thermal powerplant and related
19 facilities, but for the exclusive jurisdiction of the commission,
20 shall provide its final comments, determinations, or opinions within
21 100 days after the filing of the application. The regional water
22 quality control board, as established pursuant to Chapter 4
23 (commencing with Section 13200) of Division 7 of the Water
24 Code, shall retain jurisdiction over an applicable water quality
25 standard that is incorporated into a final certification issued
26 pursuant to this chapter.

27 (e) The repowering of a thermal powerplant and related facilities
28 that demonstrate superior environmental or efficiency performance
29 improvement shall receive first priority in review by the
30 commission.

31 (f) With respect to the repowering of a thermal powerplant and
32 related facilities reviewed under the process established by this
33 chapter, it shall be shown that the applicant has contracted with a
34 general contractor and has contracted for an adequate supply of
35 skilled labor to construct, operate, and maintain the plant.

36 (g) With respect to a repowering of a thermal powerplant and
37 related facilities reviewed under the process established by this
38 chapter, it shall be shown that the thermal powerplant and related
39 facilities comply with all regulations adopted by the commission
40 that ensure that an application addresses disproportionate impacts

1 in a manner consistent with Section 65040.12 of the Government
2 Code.

3 (h) To implement this section, the commission may adopt
4 emergency regulations in accordance with Chapter 3.5
5 (commencing with Section 11340) of Part 1 of Division 3 of Title
6 2 of the Government Code. For purposes of that chapter, including,
7 without limitation, Section 11349.6 of the Government Code, the
8 adoption of the regulations shall be considered by the Office of
9 Administrative Law to be necessary for the immediate preservation
10 of the public peace, health, safety, and general welfare.

11 (i) For purposes of this section, “repowering” means a project
12 for the modification of an existing generation unit of a thermal
13 powerplant that meets all of the following criteria:

14 (1) The project complies with all applicable requirements of
15 federal, state, and local laws.

16 (2) The project is located on the site of, and within the existing
17 boundaries of, an existing thermal facility.

18 (3) The project will not require significant additional
19 rights-of-way for electrical or fuel-related transmission facilities.

20 (4) The project will result in significant and substantial increases
21 in the efficiency of the production of electricity, including, but not
22 limited to, reducing the heat rate, reducing the use of natural gas,
23 reducing the use and discharge of water, and reducing air pollutants
24 emitted by the project, as measured on a per kilowatt-hour basis.

25 SEC. 3. Section 25551 is added to the Public Resources Code,
26 to read:

27 25551. This chapter shall remain in effect only until January
28 1, 2012, and as of that date is repealed, unless a later enacted
29 statute, that is enacted before January 1, 2012, deletes or extends
30 that date.